



# House of Representatives

General Assembly

**File No. 688**

January Session, 2015

Substitute House Bill No. 7027

*House of Representatives, April 16, 2015*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REVISIONS TO CERTAIN CRIMINAL STATUTES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-115 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) A person is guilty of criminal mischief in the first degree when:  
4 (1) With intent to cause damage to tangible property of another and  
5 having no reasonable ground to believe that such person has a right to  
6 do so, such person damages tangible property of another in an amount  
7 exceeding [one thousand five hundred] two thousand dollars, or (2)  
8 with intent to cause an interruption or impairment of service rendered  
9 to the public and having no reasonable ground to believe that such  
10 person has a right to do so, such person damages or tampers with  
11 tangible property of a utility or mode of public transportation, power  
12 or communication, and thereby causes an interruption or impairment  
13 of service rendered to the public, or (3) with intent to cause damage to  
14 any electronic monitoring equipment owned or leased by the state or

15 its agent and required as a condition of probation or conditional  
16 discharge pursuant to section 53a-30, as a condition of release pursuant  
17 to section 54-64a or as a condition of community release pursuant to  
18 section 18-100c, and having no reasonable ground to believe that such  
19 person has a right to do so, such person damages such electronic  
20 monitoring equipment and thereby causes an interruption in its ability  
21 to function, or (4) with intent to cause an interruption or impairment of  
22 service rendered to the public and having no reasonable ground to  
23 believe that such person has a right to do so, such person damages or  
24 tampers with (A) any tangible property owned by the state, a  
25 municipality or a person for fire alarm or police alarm purposes, (B)  
26 any telecommunication system operated by the state police or a  
27 municipal police department, (C) any emergency medical or fire  
28 service dispatching system, (D) any fire suppression equipment owned  
29 by the state, a municipality, a person or a fire district, or (E) any fire  
30 hydrant or hydrant system owned by the state or a municipality, a  
31 person, a fire district or a private water company, or (5) with intent to  
32 cause damage to tangible property owned by the state or a  
33 municipality that is located on public land and having no reasonable  
34 ground to believe that such person has a right to do so, such person  
35 damages such tangible property in an amount exceeding [one  
36 thousand five hundred] two thousand dollars.

37 (b) Criminal mischief in the first degree is a class D felony.

38 Sec. 2. Section 53a-116 of the general statutes is repealed and the  
39 following is substituted in lieu thereof (*Effective October 1, 2015*):

40 (a) A person is guilty of criminal mischief in the second degree  
41 when: (1) With intent to cause damage to tangible property of another  
42 and having no reasonable ground to believe that such person has a  
43 right to do so, such person damages tangible property of another in an  
44 amount exceeding [two hundred fifty] one thousand dollars; or (2)  
45 with intent to cause an interruption or impairment of service rendered  
46 to the public and having no reasonable ground to believe that such  
47 person has a right to do so, such person damages or tampers with

48 tangible property of a public utility or mode of public transportation,  
49 power or communication, and thereby causes a risk of interruption or  
50 impairment of service rendered to the public; or (3) with intent to  
51 cause damage to tangible property owned by the state or a  
52 municipality that is located on public land and having no reasonable  
53 ground to believe that such person has a right to do so, such person  
54 damages such tangible property in an amount exceeding [two hundred  
55 fifty] one thousand dollars.

56 (b) Criminal mischief in the second degree is a class A  
57 misdemeanor.

58 Sec. 3. Subdivision (9) of section 53a-3 of the general statutes is  
59 repealed and the following is substituted in lieu thereof (*Effective from*  
60 *passage*):

61 (9) "Peace officer" means a member of the Division of State Police  
62 within the Department of Emergency Services and Public Protection or  
63 an organized local police department, a chief inspector or inspector in  
64 the Division of Criminal Justice, a state marshal while exercising  
65 authority granted under any provision of the general statutes, a  
66 judicial marshal in the performance of the duties of a judicial marshal,  
67 a conservation officer or special conservation officer, as defined in  
68 section 26-5, a constable who performs criminal law enforcement  
69 duties, a special policeman appointed under section 29-18, 29-18a or  
70 29-19, an adult probation officer, an official of the Department of  
71 Correction authorized by the Commissioner of Correction to make  
72 arrests in a correctional institution or facility, any investigator in the  
73 investigations unit of the office of the State Treasurer, a United States  
74 marshal or deputy marshal, any special agent of the federal  
75 government authorized to enforce the provisions of Title 21 of the  
76 United States Code, or a member of a law enforcement unit of the  
77 Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of  
78 Connecticut created and governed by a memorandum of agreement  
79 under section 47-65c who is certified as a police officer by the Police  
80 Officer Standards and Training Council pursuant to sections 7-294a to

81 7-294e, inclusive;

82 Sec. 4. (NEW) (*Effective October 1, 2015*) Not later than January 1,  
83 2016, and quarterly thereafter, the Commissioner of Correction, after  
84 consultation with the Criminal Justice Policy and Planning Division  
85 within the Office of Policy and Management, shall, in accordance with  
86 the provisions of section 11-4a of the general statutes, report to the  
87 General Assembly details about earned risk reduction credits awarded  
88 to reduce an inmate's sentence pursuant to section 18-98e of the  
89 general statutes. Such report shall include: (1) The number of inmates  
90 released overall and the number of inmates released early as a result of  
91 the award of such credit; (2) the crimes for which such released  
92 inmates were convicted; (3) the amount of risk reduction credit earned  
93 by inmates released early pursuant to such credit; and (4) any  
94 recidivism data regarding inmates who were released early pursuant  
95 to such credit, including any data such as rate of reentry into the  
96 correctional system, elapsed time between release and such reentry,  
97 and the crimes for which such inmates were convicted that resulted in  
98 such reentry. Not later than thirty days after submission of the report  
99 to the General Assembly, said commissioner shall post the report on  
100 the Department of Correction's Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	53a-115
Sec. 2	<i>October 1, 2015</i>	53a-116
Sec. 3	<i>from passage</i>	53a-3(9)
Sec. 4	<i>October 1, 2015</i>	New section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF – Revenue Gain	Minimal	Minimal
Correction, Dept.	GF - Savings	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None**Explanation**

The bill requires the Department of Correction and the Office of Policy and Management's Criminal Justice Policy and Planning Division to report on certain data related to risk reduction credits. The agencies currently have the data available and therefore the requirement is not anticipated to result in a fiscal impact.

The bill increases the threshold for property damage for both first and second degree criminal mischief. To the extent that fewer inmates are incarcerated for first degree criminal mischief and additional fines are assessed for second degree criminal mischief, minimal savings in the Department of Correction and a minimal revenue gain from fines will result. There are currently 11 people incarcerated for first degree criminal mischief and on average 13 fines are assessed annually for second degree criminal mischief resulting in an average of \$3,600 in revenue.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 7027*****AN ACT CONCERNING REVISIONS TO CERTAIN CRIMINAL STATUTES.*****SUMMARY:**

This bill makes three unrelated changes.

First, it expands the definition of a “peace officer” to include U.S. marshals and deputy marshals. Among other things, this gives them certain arrest powers under state law; access to certain information; and legal protections when using force to apprehend someone, prevent an escape, or protect themselves or others.

Second, it requires the Department of Correction (DOC) commissioner, quarterly beginning by January 1, 2016, to report to the General Assembly and post on its website certain information about inmates earning risk reduction credits.

Third, it makes changes to the crime of criminal mischief. By law, a person can commit 1<sup>st</sup> or 2<sup>nd</sup> degree criminal mischief in a number of different ways. When these crimes are committed by intentionally damaging another person’s property, the degree of the crime and the penalty vary based on the value of the property damaged. The bill increases the value of the property that must be damaged for someone to be charged with each of these crimes.

EFFECTIVE DATE: October 1, 2015 except the provision on U.S. marshals and deputy marshals is effective upon passage.

**RISK REDUCTION CREDIT REPORTS**

The bill requires DOC, after consulting with the Office of Policy and Management’s Criminal Justice Policy and Planning Division, to issue quarterly reports including:

1. the total number of inmates released and number released early as a result of earning risk reduction credits;
2. the criminal convictions of the released inmates;
3. the amount of credits earned by inmates released early because of the credits; and
4. any recidivism data about inmates released early because of the credits, such as rates of reentry into prisons, time between release and return to prison, and the criminal convictions that resulted in their return to prison.

DOC must post the report on its website within 30 days of submitting each report to the legislature.

By law, inmates convicted of most crimes can earn credits for up to five days per month to reduce their maximum prison sentences, at the DOC commissioner's discretion. Inmates earn credits for (1) adhering to their accountability plans, (2) participating in programs and activities, and (3) good conduct and obeying rules (although this alone is not enough to earn credits). For inmates other than those convicted of a violent crime or 2<sup>nd</sup> degree burglary, parole eligibility is based on their sentences as reduced by the credits.

### **CRIMINAL MISCHIEF**

The bill increases the value of the property that must be damaged for the different degrees of and penalties that apply for criminal mischief.

By law, a person commits 1<sup>st</sup> or 2<sup>nd</sup> degree criminal mischief when he or she (1) intends to damage another person's tangible property or state or municipal property on public land, (2) has no reasonable ground to believe that he or she has a right to do so, and (3) damages the property. The degree of the crime depends on the amount of damage caused. Table 1 shows the amount of damage that must be caused to qualify as 1<sup>st</sup> or 2<sup>nd</sup> degree criminal mischief and the penalty

that applies to each.

Table 1: Amount of Property Damage Caused to Qualify as 1<sup>st</sup> or 2<sup>nd</sup> Degree Criminal Mischief Under Current Law and the Bill

<i>Degree</i>	<i>Amount of Property Damage Caused</i>		<i>Penalty</i>
	<i>Current Law</i>	<i>Under the Bill</i>	
1 <sup>st</sup>	More than \$1,500	More than \$2,000	Class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both
2 <sup>nd</sup>	More than \$250	More than \$1,000	Class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both

By law, a person commits 3<sup>rd</sup> degree criminal mischief when, in the same manner, he or she causes any amount of property damage.

By law, a person can commit criminal mischief in other ways.

## **BACKGROUND**

### ***U.S. Marshals***

These officers are considered the enforcement arm of the federal courts and are involved in a number of federal law enforcement initiatives. Their duties include protecting the federal judiciary, apprehending federal fugitives, managing and selling seized assets, housing and transporting federal prisoners, and operating the witness protection program.

### ***Peace Officers***

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, DOC officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, federal narcotics agents, and members of a law enforcement unit



created and governed under a state-tribal memorandum.

For purposes of their duties, peace officers have access to records not generally available to the public, such as certain criminal justice records (CGS § 29-16). They also have various powers regarding use of force and arrests.

**Use of Physical Force.** Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

**Use of Deadly Physical Force.** Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

**Duty to Retreat.** The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

**Resisting Arrest.** The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

**Arrest Powers.** Peace officers, when in their town, can arrest, without a warrant, a person (1) apprehended while committing an offense or (2) on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their town if they

could legally arrest the person under their authority (CGS § 54-1f).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 11 (04/06/2015)